

REMARKS

In accordance with the foregoing and the following remarks, claims 24-26 are withdrawn from consideration, without prejudice or disclaimer, and claim 36 is added. Claims 1-36 are pending and under consideration.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect Group I, claims 1-23 and 27-35, and Species I (Figures 2-5), in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Group II is concerned, it is believed that claims 24-26 are so closely related to elected claims 1-23 and 27-35 that they should remain in the same application. The elected claims 1-23 and 27-35 are directed to a paper pick-up device of an image forming apparatus and claims 24-26 are drawn to a method of picking up paper sheets having different strengths in an image forming apparatus including a pickup roller and a friction plate.

There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology. It is believed that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Insofar as Species II (Figures 6-9) of Group I is concerned, it is believed that newly added linking claim 36 links together Species I (Figures 2-5) and Species II (Figures 6-9) and, therefore, acts to prevent restriction between inventions that may otherwise be shown to be divisible. MPEP 809.03. Further, it is believed that evaluation of both sets of Species would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Species II claims by filing a divisional application. Accordingly, it is respectfully requested that

there are no patentably distinct species and Examiner must examine Species I and Species II, as well as the respective claims of each of Species I and II, since the linking claim is generic thereto.

CONCLUSION:

Upon review of references involved in this field of technology, when considering that the apparatus recited by the Group II claims is directed to a method of picking up paper sheets having different strengths in an image forming apparatus including a pickup roller and a friction plate, and the elected claims 1-23 and 27-35 are directed to a paper pick-up device of an image forming apparatus, when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application. Further, it is also submitted that Group I consists of a single disclosed species for prosecution purposes.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner's contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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